IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)
)
         Chi-Jung Huang   )   Confirmation Number: 8945
)
Serial No.: 10/646,141   )   Examiner: Iwarere, Oluseye
)
Filed: August 22, 2003   )   Group Art Unit: 4127
)
For: Method And System Of Matching   )   TKHR Docket No.: 252011-1200
Customer Demand With Production   )   Top-Team Ref: 0503-9730US
Capacity   )

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The FINAL Office Action mailed October 28, 2009, and ensuing Advisory Action mailed February 17, 2010, have been carefully considered, and Applicant appeals the rejections set out therein. Because the rejections embody clear errors, Applicant submits the accompanying pre-appeal request for review. The following remarks are submitted in support thereof.

Claims 1-7, 9-15 and 17-23 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Kaneko et al. (2001/0020230) in view of Ham (US 7,370,005). Applicant respectfully disagrees with these rejections.

Independent claim 1 recites (in part):

> 1. A computer-implemented method of matching customer demand with a manufacturer supply of products from plurality of factory facilities, comprising using a computer to perform the steps of:
> …
> ***collecting rematched demand data corresponding to a portion of the demand unsatisfied by the first matching operation from the demand data and collecting rematched supply data corresponding to a portion of the***

production capacity unused in the first matching operation from the supply data;

classifying the rematched demand data into a plurality of classified demand data records according to at least one attribute of the at least one product and the at least one customer corresponding thereto, the classified demand data having different priorities; and

performing a second matching operation to match the classified demand data with the rematched supply data based on the priorities of the classified demand data to obtain a second demand-supply matching result.

One of the main features of claim 1 is that, after the first matching operation, the demand unsatisfied by the first matching operation (*i.e.*, rematched demand data) is further classified according to attribute(s) of the product and the customer pertaining to the demand, and the classified rematched demand data is then processed in a second matching operation. Neither Kaneko nor Ham teaches this feature.

The FINAL Office Action (page 4) alleges that Ham teaches 'classifying demand data into three groups', and therefore concludes that 'Ham teaches inventory replication based upon order fulfillment rates with the features of classifying the rematched demand data into a plurality of classified demand data records according to at least one attribute of the at least one product and the at least one customer corresponding thereto and the classified demand data having different priorities'. Applicant disagrees with this allegation and submits that the conclusion is not supported on the basis of the facts gleaned from the cited reference.

First, Applicant notes that the statement: "abstract discusses classifying demand data into three groups" (FINAL Office Action, p. 4, line 10) simply isn't supported by the teachings of Ham. In fact, the abstract of Ham, in total, teaches:

> A load balancing technology segregates various inventory types (e.g., potatoes vs. milk, vs. pretzels, vs. tissue paper, etc.) based upon how frequently they are ordered in a distribution center. Inventory types that are ordered at the slowest rate are not "replicated" over multiple pods in the distribution center. Rather, they are constrained to reside at a single pod within the distribution center. Items that are ordered somewhat more frequently than those in the slowest group are replicated in multiple pods across the distribution center. In other words, these items are separately stocked at locations on more than one pod in the distribution center. This means that a container passing through the distribution center can obtain each of the items in the second group of item types at multiple pods in the distribution center. Thus, these items do not create a bottleneck in the order fulfillment process. Inventory types in a third group, the fastest movers, are segregated from items in the first two groups. They are stored in a separate type of pod that fulfills orders even faster than the other type of pods.

As can be readily verified, by even a cursory inspection of the abstract of Ham, Ham doe not teach classing demand data into three groups. Instead, the abstract describes three different types of inventory (e.g., slow, moderate, and fast-moving inventory), and it appears that the Office Action may have confused this with the claimed feature.

More particularly, According to the abstract of Ham, "inventory items are segregated into various inventory types based upon how frequently they are ordered in a distribution center." In other words, according to Ham, the subjects that are classified are 'inventory items'. Persons of ordinary skill in the art would understand the "inventory items" of Ham to be supplies, rather than demands. Consequently, the statement "abstract discusses classifying demand data into three groups" is clearly misplaced. For at least this reason, the rejection is misplaced and should be withdrawn.

In addition, the conclusion that "Ham teaches inventory replication based upon order fulfillment rates with the features of classifying the rematched demand data into a plurality of classified demand data records according to at least one attribute of the at least one product and the at least one customer corresponding thereto and the classified demand data having different priorities" cannot properly be drawn from the teachings of Han.

The inventory segregation of Ham does not disclose the features of *classifying the rematched demand data*.

Furthermore, the Examiner maintained that: "items being arranged based on how frequently they are ordered is a measure of the demand for those items" (Office Action, page 18). Applicant disagrees, and submits that whether or not the operation of arranging items is a measure of the demand, it cannot change the fact that "segregating inventories" of Ham does not disclose the main feature described above -- *i.e.*, "after the first matching operation, the demand unsatisfied by the first matching operation (i.e., rematched demand data) is further classified according to attribute(s) of the product and the customer pertaining to the demand, and the classified rematched demand data is then processed in a second matching operation." For at least this additional reason, the rejection of claim 1 should be withdrawn.

Further, claim 1 does not claim mere duplication of essential working parts (as alleged in page 19 of the FINAL Office Action), the demand unsatisfied by the first

matching operation (*i.e.*, rematched demand data) is further classified after the first matching operation, and the second matching operation is implemented on the classified rematched demand data.

The FINAL Office Action admits that Kaneko fails to teach the features of "classifying the rematched demand data into a plurality of classified demand data records according to at least one attribute of the at least one product and the at least one customer corresponding thereto, the classified demand data having different priorities; and performing a second matching operation to match the classified demand data with the rematched supply data based on the priorities of the classified demand data to obtain a second demand-supply matching result". In addition, as discussed above, Ham does not teach the features of the classifying step and the second matching operation, either.

For these reasons, teachings of Kaneko and Ham (collectively) do not suggest all features of the claim 1 to one of ordinary skill in the art. Therefore, even if Kaneko and Ham could be properly combined, the resulting combination still fails to teach or suggest all features of claim 1. Accordingly, the rejection of claim 1 should be overturned. As noted above, the rejections of claims 9 and 17 should be overturned for the same reasons as claim 1. Insofar as all remaining claims depend from claim 1, claim 9, or claim 17, the rejections of all remaining claims should be withdrawn for the same reasons.

Among the other rejected claims, claim 25 is independent. Therefore, remarks are provided regarding to patentability of the independent claim 25. The FINAL Office Action (pages 11~12) alleged that Menninger teaches the capacity model and the capacity management module of claim 25. More specifically, the Office Action states that the "leading to predictive supply chain decisions" (*citing* Menninger, col. 17, lines 50-53) is construed as the route information for the product.

According to claim 25, the route information records a plurality of tools processing the products.

In contrast, according to Menninger, a mechanism for order confirmation in a supply chain management framework is provided, one of ordinary skill in the art can know, from the context, the 'predictive supply chain decisions' have nothing to do with the "tools" of claim 25. Therefore, the 'predictive supply chain decisions' do not disclose the "route information," which <u>records a plurality of tools</u>.

Applicant submits that, to one of ordinary skill in the art, neither 'leading to predictive supply chain decisions' (Menninger, col. 17, lines 50-53) nor 'a first set of data collected from a plurality of stores of the supply chain utilizing a network (Menninger, col. 17, 58-60) has anything to do with the "capacity model having route information for the product, wherein the <u>route information records a plurality of tools</u>" of claim 25. For at least these reasons, the rejection of claim 25 should be withdrawn.

The Office Action also stated that Menninger teaches the "capacity management module" of claim 25, in col. 129, lines 29-31 and col. 17, lines 60-67. Applicant disagrees. According to the cited paragraphs, a second set of data is compared against the forecasting in operation 1136, wherein the second set of data relates to the amount of goods sold by the stores. To one of ordinary skill in the art, "comparing the amount of goods sold by the stores against a forecasting" simply has nothing to do with "reserving production capacity of the factory facilities according to the demand data and the route information," as defined in claim 25. For at least this additional reason, the rejection of claim 25 should be overturned.

In addition, since the Menninger does not disclose the route information which records a plurality of tools, it is impossible for Menninger to disclose "reserving production capacity of the factory facilities <u>according to</u> the demand data and <u>the route information</u>".

For at least these reasons, the rejection of claim 25 should be overturned. Since 26-33 depend from claim 25, the rejections of these claims should be overturned for the same reasons.

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Respectfully submitted,

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